

PATENT  
Docket No. 203442107020  
Client Ref. UM 1070 p1

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Assistant Commissioner for Patents, Washington, D.C. 20231, on December 14, 1998.

  
Jinny Nguyen

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the application of:

Vishva M. Dixit and Karen O'Rourke

Serial No.: 08/443,982

Filing Date: May 18, 1995

For: METHOD AND COMPOSITIONS FOR  
REGULATING FAS-ASSOCIATED  
APOPTOSIS

Examiner: D. Romeo

Group Art Unit: 1646

**DECLARATION OF VISHVA M. DIXIT AND KAREN O'ROURKE  
PURSUANT TO 37 C.F.R. § 1.131**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

We, Vishva M. Dixit and Karen O'Rourke, declare as follows:

1. We are the inventors of the above-referenced patent application, and are familiar with the contents thereof.

2. We have reviewed the Boldin et al., Journal of Biological Chemistry (April 7, 1995) 270:7795-7798 reference (hereinafter "Boldin") cited by the Examiner under 35 U.S.C. §102(a). Boldin is dated less than one year prior to the filing date of May 18, 1995. Specifically, Boldin is alleged to anticipate the invention of claims 5, 46, 48, 55 and 56.

3. The subject matter which we desire to claim does not correspond to a lost count in an interference and is not otherwise barred to Applicants.


4. As is evident from Applicants' Cell paper (Chinnaiyan, et al. (May 19, 1995) 81:505-512) that reports the discovery of the FADD protein and fragments thereof, and the elucidation of their biological functions, Applicants conceived of and reduced to practice the subject matter of the rejected claims prior to April 7, 1995. Applicants' Cell paper was received by Cell Press for a review on February 23, 1995 and was last revised on March 31, 1995 (see page 511, last paragraph before the reference section).

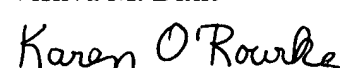
5. As evidence of such, the attached article shows that prior to the publication date of the cited reference a conception and a reduction to practice of a composition comprising a FADD polypeptide, including but not limited to the full-length FADD polypeptide, a fragment thereof, or a fusion protein thereof, which is capable of inducing apoptosis in a suitable cell. A showing of diligence is not required because the reduction to practice occurred prior to the publication date of the reference.

6. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

12/9/98  
Date

12/9/98  
Date

  
Vishva M. Dixit

  
Karen O'Rourke